

Message Text

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AMEMBASSY AMMAN

USINT BAGHDAD

AMEMBASSY BEIRUT

AMEMBASSY CAIRO

AMEMBASSY DAMASCUS

AMCONSUL DHAHRAN

AMEMBASSY DOHA

AMEMBASSY JIDDA

AMEMBASSY KUWAIT

AMEMBASSY MANAMA

AMEMBASSY MUSCAT

AMEMBASSY SANA

AMEMBASSY TEL AVIV

AMEMBASSY TRIPOLI

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FOL ABU DHABI 0439 SENT ACTIONSECSTATE USDDOC FEB 16, 1978
REPEATED TO YOU QUOTE

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TAGS: ETRD, TC

SUBJ: ARAB BOYCOTT: ADNOC REQUIREMENTS FOR RUWAIS

REF: (A) ABU DHABI 420; (B) STATE 040409

1. AMBASSADOR MET WITH ADNOC GENERAL MANAGER HAMRAH KROUHA
(ALGERIAN NATIONAL) FEB. 16 TO EXPLAIN WHY US FIRMS WOULD STILL

BE UNABLE TO CERTIFY INTENDED COMPLIANCE WITH REVISED ADNOC SPECIAL CONDITIONS (PARA 2 REF A) EVEN THOUGH REQUIREMENTS FOR NEGATIVE CERTIFICATE OF ORIGIN HAS NOW BEEN REMOVED. KROUHA UNDERSTOOD POINT ABOUT AMERICAN COMPANIES BEING UNABLE TO DISCRIMINATE AGAINST OTHER AMERICAN FIRMS IN CONDUCT OF US COMMERCE AND AGREED TO HAVE ADNOC LAWYERS LOOK AGAIN AT THIS ASPECT OF ADNOC SPECIAL CONDITIONS.

2. DISCUSSION THEN MOVED TO QUESTION OF WHERE DO WE GO FROM HERE BECAUSE OF CONTINUED UNCERTAINTIES ABOUT WHAT WOULD BE ACCEPTABLE LANGUAGE THAT WOULD MEET US LAWS AS WELL AS UAE OR ABU DHABI LAWS AND REGULATIONS. AMBASSADOR URGED THAT ADNOC REVISE ITS CONTRACT CONDITIONS BY ADOPTING NORMAL COMMERCIAL DOCUMENTATION WITHOUT SPECIFICALLY REFERRING TO THE ARAB BOYCOTT. THIS WOULD AVOID NEED FOR US FIRMS TO SUBMIT ANY REPORTING ON COMPLIANCE OF ANY ADMITTED USE OF BYOCOTT CLAUSE. AMBASSADOR OBSERVED THAT IF CONTRACT REQUIREMENTS SIMPLY STATED THAT UAE GOVERNMENT (OR ABU DHABI EMIRATE) REQUIRED OBSERVANCE OF ALL ITS LAWS AND REGULATIONS WITH REGARD TO PROVISION OF GOODS AND SERVICES AND THAT REGULATIONS GOVERNING ANY TRANSACTION SPECIFIED IDENTIFICATION OF PARTIES, IDENTIFICATION OF PRIME AND SUBCONTRACTORS AND SUPPLIERS, THE IDENTIFICATION OF SOURCES OF SUPPLY, PRECAUTIONARY CLAUSES AGAINST WAR/RISK CONFISCATION, HOW CONSULAR INVOICES AND CERTIFICATES OF ORIGIN SHOULD BE CERTIFIED, PLUS ANY OTHER NORMAL COMMERCIAL CONTRACTUAL REQUIREMENTS, PROBLEMS NOW FACING ALL POTENTIAL US LIMITED OFFICIAL USE

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SUPPLIERS FOR RUWAIS PROJECT COULD BE AVOIDED.

3. KROUHA'S RESPONSE WAS THAT ANY KIND OF STRAIGHTFORWARD CONTRACT LANGUAGE WHICH AVOIDED MENTION OF THE ARAB BOYCOTT WOULD REQUIRE A POLITICAL DECISION WHICH WAS BEYOND HIS SCOPE. HE WOULD, HOWEVER, MAKE NOTE OF THIS APPROACH AND DISCUSS IT WITH HIS LAWYERS "AND OTHER OFFICIALS".

4. AMBASSADOR THEN SAID THAT IF LANGUAGE PROBLEM CANNOT BE RESOLVED, HE HOPED THAT AMERICAN FIRMS WOULD BE PERMITTED TO BID ON TENDER REQUESTS WHICH CONTAINED UNACCEPTABLE BOYCOTT CLAUSES BY MAKING A WRITTEN EXCEPTION TO SUCH CLAUSES. KROUHA THOUGHT THIS WAS THE BEST APPROACH FOR TIME BEING. HE SAID ADNOC WANTS PARTICIPATION OF AS MANY US FIRMS AS POSSIBLE IN BIDDING FOR DIFFERENT ASPECTS OF RUWAIS INDUSTRIAL PROJECT BECAUSE COMPETITION IS HEALTHY AND IT ENABLES ADNOC TO STUDY A GREATER NUMBER OF OFFERS AND BE BETTER AWARE OF AVAILABLE TECHNOLOGY. KROUHA SAID HE WOULD ISSUE INSTRUCTIONS TO MAKE SURE THAT NO US FIRM IS DISQUALIFIED FROM OUTSET IN BIDDING ON RUWAIS PROJECT BECAUSE IT TAKES EXCEPTION TO BOYCOTT CLAUSE IN TENDER. THIS OF COURSE DID NOT MEAN THAT FIRM WOULD GET CONTRACT IF IT WERE SUCCESSFUL BIDDER AND NO ACCEPTABLE ARRANGEMENT

COULD BE WORKED OUT IN CONTRACT NEGOTIATIONS ON BOYCOTT CLAUSES.

4. WE BELIEVE DR. KROUHA IS TRYING TO BE AS FORTHCOMING AS POSSIBLE BUT WASHINGTON AGENCIES SHOULD UNDERSTAND THAT WE OPERATING AT A MAJOR DISADVANTAGE. UNLESS WE CAN GET UAE TO ACCEPT "CLEAN DOCUMENT APPROACH" WHICH WE BELIEVE IS HIGHLY UNLIKELY, ONLY LARGEST US FIRMS WILL FEEL IT WORTH TAKING RISK OF SPENDING TIME AND MONEY TO PREPARE BIDS FOR ADNOC PROJECTS GIVEN POSSIBILITY AMERICAN FIRMS COULD CONTRACT IF FOREIGN COMPETITORS ARE CLOSE BEHIND AND ARE WILLING ACCEPT REVISED BOYCOTT LANGUAGE. SINCE THERE IS SO MUCH POTENTIAL BUSINESS AT STAKE, WOULD WELCOME ANY FURTHER SUGGESTIONS OR GUIDANCE DEPARTMENT AND USDOC CAN GIVE, PARTICULARLY IF THERE IS ANY ACCEPTABLE LANGUAGE OTHER THAN "CLEAN DOCUMENT APPROACH".
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